

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

KRISTI SMITH,

Plaintiff,

v.

CLOVER PARK SCHOOL DISTRICT NO.
400,

Defendant.

CASE NO. 3:21-cv-05767

ORDER

This matter comes before the Court *sua sponte*. In reviewing the Joint Statement of Disputed Instructions, Dkt. # 64, the Court understands that the parties disagree over whether certain claims are at issue in this case. The Court issues this Order to resolve the dispute.

First, Plaintiff indicates that she is pursuing claims for FMLA and WFLA retaliation. But in its motion for summary judgment, Defendant sought dismissal of all of Plaintiff's claims. Dkt. ## 29 & 29-1. Defendant indicated in the motion that it sought dismissal of "FMLA/WFLA 'Retaliation or Discrimination' Claims." Dkt. # 29 at 16-17. Plaintiff's opposition to the motion does not address the claims. *See generally* Dkt. # 34. Accordingly, any such claims were abandoned and waived. *See Chang v. Straub Clinic & Hosp. Inc.*, 670 F. App'x 591, 592 (9th Cir. 2016).

1 Second, Plaintiff indicates that she seeks liquidated damages under RCW 50A.40.030(4)
2 for a willful violation of the WFLA. The Court's conclusion above that there is no WFLA
3 retaliation claim at issue would appear to render moot such a claim for damages. But also,
4 Plaintiff did not plead this in her complaint. *See generally* Dkt. # 1-1. Accordingly, the claim is
5 not at issue.

6 Dated this 10th day of January, 2023.

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9 John H. Chun
10 United States District Judge
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